

SENATE BILL NO. 166

INTRODUCED BY E. STONINGTON

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING TUBERCULOSIS CONTROL STATUTES; UPDATING THE DEFINITION OF TUBERCULOSIS; CLARIFYING WHAT A COMMITMENT ORDER MAY PROVIDE; ALLOWING COMMITMENT FOR TREATMENT AT A LOCATION OTHER THAN A HOSPITAL; AMENDING THE PROVISION GOVERNING RELEASE FROM A HOSPITAL OR TREATMENT LOCATION; AUTHORIZING DETAINMENT OF A PERSON FOR TUBERCULOSIS TESTING WHETHER OR NOT THE TUBERCULOSIS IS SUSPECTED TO BE COMMUNICABLE; AMENDING SECTIONS 50-17-102, 50-17-105, 50-17-107, 50-17-108, 50-17-109, 50-17-110, 50-17-111, 50-17-113, 50-17-114, AND 50-17-115, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 50-17-102, MCA, is amended to read:

"50-17-102. Definitions. As used in this chapter, unless the context clearly indicates otherwise, the following definitions apply:

(1) "Approved course of treatment" means a course of treatment for tuberculosis that includes medical treatment prescribed by a physician and consistent with accepted medical standards, as well as appropriate followup to ensure public health and safety as set out in the rules of the department.

(2) "Department" means the department of public health and human services provided for in 2-15-2201.

(3) "Hospital" has the meaning provided in 50-5-101.

~~(3)~~(4) "Local board" means a city, county, city-county, or district board of health.

(5) "Treatment location" or "location" means a hospital or other place designated by a local health officer where the person must remain to be available for an approved course of treatment.

~~(4)~~(6) (a) "Tuberculosis" means a disease caused by mycobacterium tuberculosis or mycobacterium tuberculosis complex.

(b) The term does not include infection by mycobacterium bovis in a nonpulmonary site that is a

1 result of instillation of bacille calmette-guerin as part of cancer therapy."

2

3 **Section 2.** Section 50-17-105, MCA, is amended to read:

4 **"50-17-105. Application to require examination or treatment for tuberculosis.** (1) The department
5 or a local board may apply for an order from the district court if a person is reasonably suspected to have
6 or to have been exposed to tuberculosis, upon request of:

7 (a) a physician legally authorized to practice medicine in the state;

8 (b) the department; or

9 (c) a local health officer.

10 (2) The application ~~shall~~ must request that the person be ordered to:

11 (a) submit to an examination for tuberculosis and, if ~~he~~ the person is found to have tuberculosis,
12 to complete an approved course of treatment; or

13 (b) enter or return to a ~~hospital for~~ treatment location to complete an approved course of
14 ~~treatment or follow an approved course of treatment outside of a hospital.~~

15 (3) The application for an order provided for in subsections (1) and (2) of this section ~~shall~~ must
16 allege that the person:

17 (a) is suspected of having tuberculosis or has been exposed to tuberculosis and has refused to be
18 examined for tuberculosis as required by rules adopted by the department; or

19 (b) has tuberculosis and has refused to be treated or to complete an approved course of treatment.

20 (4) The application ~~shall~~ must state the names of witnesses by which facts alleged may be proved.
21 At least one witness must be a physician."

22

23 **Section 3.** Section 50-17-107, MCA, is amended to read:

24 **"50-17-107. Adjudication of application.** Following the hearing, the court shall find that the
25 allegations of the application are:

26 (1) true and order the person to enter or return to a ~~hospital~~ treatment location for treatment ~~or~~
27 ~~to follow an approved course of treatment outside of a hospital;~~

28 (2) true and order the person to submit to an examination for tuberculosis at a hospital within a
29 specified time and to complete an approved course of treatment if the person is found to have
30 tuberculosis; or

(3) not true and order the person discharged."

Section 4. Section 50-17-108, MCA, is amended to read:

"50-17-108. Commitment to hospital on noncompliance with order to be examined or treated. (1)

If a person fails to comply with an order issued pursuant to 50-17-107 to submit to an examination for tuberculosis within the time set ~~or to complete an approved course of treatment~~, the court shall order ~~him~~ the person committed to a hospital to determine if the person has tuberculosis and, if so, whether the person is infectious.

(2) If a person fails to comply with an order issued pursuant to 50-17-107 to complete an approved course of treatment, the court shall order the person to be restricted to a treatment location to complete an approved course of treatment under the supervision of a local health officer, the officer's designee, or a physician or other health care professional designated by the department."

Section 5. Section 50-17-109, MCA, is amended to read:

"50-17-109. Order of commitment -- warrant for transportation. ~~The~~ If a person is committed pursuant to 50-17-108 to a hospital for examination or to a treatment location for treatment, the court shall:

(1) send certified copies of an order of commitment to:

(a) the hospital at which the person is to be examined; or

(b) the person who will supervise the course of treatment at the treatment location; and

(c) the department ~~or~~ and local board of health; and

(2) issue a warrant directed to the sheriff to transport the person to the designated hospital or treatment location."

Section 6. Section 50-17-110, MCA, is amended to read:

"50-17-110. Confinement in hospital or treatment location -- submission to treatment. (1) A

person committed under 50-17-107 or 50-17-108 shall remain at the hospital or treatment location until discharged under 50-17-112 or 50-17-113, ~~but he~~. However, the person is not required to submit to medical or surgical treatment without ~~his~~ the person's written consent, the consent of ~~his~~ the person's next of kin or guardian if the person is incompetent, or the consent of ~~his~~ the person's parent or guardian

1 if the person is a minor.

2 (2) The person in charge of the hospital or the person supervising an approved course of treatment
3 for a person at a treatment location may use reasonable means to ~~insure~~ ensure that the person committed
4 remains at the hospital or location."

5

6 **Section 7.** Section 50-17-111, MCA, is amended to read:

7 **"50-17-111. Transfer of person to another ~~hospital~~ treatment location.** If it is in ~~his~~ the best
8 interest of a person committed to a treatment location, ~~a~~ the person may be transferred from the ~~hospital~~
9 location to which ~~he~~ the person was committed to another ~~hospital~~ location approved by the department.
10 The person in charge of the ~~hospital~~ approved course of treatment at the location to which the person was
11 committed shall notify the court that ordered commitment, and the department or local board that
12 requested commitment, of the transfer."

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14 **Section 8.** Section 50-17-113, MCA, is amended to read:

15 **"50-17-113. Voluntary release.** (1) If the ~~person in charge of~~ physician for the person at the
16 hospital or treatment location where the person has been committed and the department or local board
17 that requested commitment concur that a person either does not have tuberculosis or has ~~submitted to~~
18 completed an approved course of treatment, the person ~~shall~~ must be released from the hospital or
19 treatment location.

20 (2) The ~~person in charge of the hospital~~ department or local board of health that requested
21 commitment shall file a notice of date of release with the court that ordered commitment."

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23 **Section 9.** Section 50-17-114, MCA, is amended to read:

24 **"50-17-114. Payment of costs, expenses, and fees.** (1) Court costs, expenses, and all fees ~~shall~~
25 must be paid by the treasurer of the county from which a person is committed.

26 (2) Expenses and fees ~~shall~~ must be paid as follows:

27 (a) to sheriffs and their deputies, the same fees allowed for similar services in district court;

28 (b) to physicians, not to exceed two, fees as set by the court;

29 (c) to witnesses, the same fees and mileage provided for attendance in district court;

30 (d) to persons other than the sheriff or ~~his~~ the sheriff's deputies who transport a person to or from

1 a hospital or treatment location, witness fees and expenses as verified by the court.

2 (3) Expenses of transporting a person to a hospital or treatment location for commitment ~~shall~~
3 must be paid from the general fund of the county from which the person is committed."

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5 **Section 10.** Section 50-17-115, MCA, is amended to read:

6 **"50-17-115. Emergency detainment -- petition -- detention.** (1) If a physician, the department, or
7 a local health officer reasonably believes that a person has ~~communicable~~ tuberculosis and that ~~he~~ the
8 person is likely to attempt to leave the jurisdiction to avoid a hearing on commitment ~~to a hospital~~, the
9 physician, department, or local health officer shall notify the sheriff of the county in which the person is
10 found, who shall cause the person to be detained in a hospital. At least by the next regular business day,
11 the physician, department, or local health officer shall petition for an order from the district court of the
12 county in which the person is found for continued detention of the person and to require examination or
13 treatment for tuberculosis pursuant to 50-17-105. The sheriff must serve the summons required by
14 50-17-106 on the person the same day the petition is filed.

15 (2) Immediately after the petition is filed the court will decide whether further emergency detention
16 is required and may order continued hospital detention of the person for no more than 7 days if it finds
17 that the person is an unacceptable danger to the public health and safety in that ~~he~~ the person probably
18 has ~~communicable~~ tuberculosis and unless detained will probably leave the jurisdiction to avoid a hearing
19 pursuant to this part.

20 (3) The district court of the county in which the person is found has jurisdiction over the person
21 for the purposes of this section. The district court may, in the interests of justice, order that jurisdiction
22 over further proceedings be transferred to the district court of the county of the person's residence."

23

24 NEW SECTION. **Section 11. Saving clause.** [This act] does not affect rights and duties that
25 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this
26 act].

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28 NEW SECTION. **Section 12. Effective date.** [This act] is effective on passage and approval.

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